

3. The form number if applicable: Not Applicable.

4. How often the collection is required: One-time.

5. Who will be required or asked to report: Voluntary submittal by requesters who receive a final response from the NRC to a Freedom of Information Act (FOIA) request during a three-month survey period.

6. An estimate of the number of responses: Approximately 200 surveys will be dispatched and an estimated 150 responses will be received.

7. An estimate of the total number of hours needed annually to complete the requirement or request: Total hours for the one-time survey is 37.5 (15 minutes per response).

8. Section 3504(h), Pub. L. 96-511 does not apply.

9. Abstract: The NRC is surveying all requesters who receive a final response from the NRC to a Freedom of Information Act (FOIA) request during a three-month survey period. The survey will assess customer perceptions of the NRC FOIA process, and will identify areas for improvement.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., (Lower Level), Washington, DC 20555.

Comments and questions should be directed by mail to the OMB reviewer: Troy Hillier, Office of Information & Regulatory Affairs (3150-0000), NEOB-10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395-3084.

NRC Clearance Officer is Brenda Jo. Shelton, (301) 415-7233.

Dated at Rockville, Maryland, this 14th day of March, 1995.

For the Nuclear Regulatory Commission.

**Gerald F. Cranford,**

*Designated Senior Official for Information Resources Management.*

[FR Doc. 95-6732 Filed 3-17-95; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-01786; License No. 19-00296-10]

### **The National Institutes of Health Issuance of Director's Decision Under 10 C.F.R. 2.206 (DD-95-05)**

Notice is hereby given that the Director, Office of Nuclear Material Safety and Safeguards, United States Nuclear Regulatory Commission (NRC or Commission) has issued a decision concerning a Petition dated December 2, 1993, submitted by the North Bethesda Congress of Citizen's Associations

regarding the National Institutes of Health (NIH), Bethesda, Maryland.

The Petition requested that the Commission suspend License Condition 24, which authorizes NIH to incinerate radioactive waste on the Bethesda campus, pending resolution of several regulatory issues. The Petition also requested copies of the environmental assessments and/or safety evaluations that form the base for the NRC's authorization of License Condition 21, which raised the sewer disposal limit for radioactive materials to 8 Ci per year, and License Condition 28, which authorizes storage of radioactive waste at the NIH Poolesville facility. Finally, the Petition requested a copy of future correspondence between NRC and NIH regarding these matters.

After review of the Petition, the Director has determined that Petitioner's request to suspend License Condition 24 (License Condition 27 in the current License) was mooted by the removal of that Condition from the License. Petitioner's request for a copy of environmental assessments and/or safety evaluations that form the bases for authorization of license Conditions 21 and 28 cannot be granted. However, certain documents submitted by the Licensee in support of license amendment applications in connection with License Conditions 21, 24, and 28 have been supplied to Petitioner. Petitioner's request for a copy of future correspondence between NRC and NIH regarding these matters was granted. The reasons for this Decision are explained in a "Director's Decision Under 10 C.F.R. 2.206" (DD-95-05), which is available for public inspection in the Commission's Public Document Room located at 2120 L Street, N.W., Washington, D.C. 20555.

A copy of this Decision will be filed with the Secretary for the Commission's review in accordance with 10 C.F.R. 2.206(c). As provided by this regulation, the Decision will constitute the final action of the Commission 25 days after the date of issuance of the Decision, unless the Commission on its own motion institutes a review of the Decision within that time.

Dated at Rockville, Maryland this 5th day of March, 1995.

For the Nuclear Regulatory Commission.

**Robert M. Bernero,**

*Director, Office of Nuclear Material Safety and Safeguards.*

BILLING CODE 7590-01-M

**DIRECTOR'S DECISION UNDER 10 C.F.R. 2.206**

### **I. Introduction**

By letter addressed to the Executive Director for Operations, dated December 2, 1993, Arlene S. Allen, on behalf of the North Bethesda Congress of Citizen's Associations, Inc. (North Bethesda Congress, or Petitioner), requested that NRC take action with respect to the National Institutes of Health (NIH, or the Licensee) in Bethesda, Maryland.

Petitioner requests that the NRC: (1) suspend License Condition 24 of the NIH Materials License No. 19-00296-10 (License), which authorizes NIH to dispose of licensed materials by incineration, pending resolution of two regulatory issues: (a) no environmental report or environmental assessment has been completed regarding the incineration of radioactive waste on NIH's Bethesda campus; and (b) there may be less than adequate monitoring to ensure that radioactive effluents are within regulatory limits; (2) provide copies of the NRC environmental assessments and/or safety evaluations that provide the bases for (a) an exception from 10 CFR § 20.303(d) limits regarding radioactive materials discharges into sanitary sewer systems (License Condition 21); and (b) approval of the construction and operation of a low level waste storage facility at NIH's Poolesville campus (License Condition 28); and (3) forward a copy of future correspondence between NRC and NIH regarding these matters to the North Bethesda Congress.

The Petitioner asserts the following as bases for these requests: (1) NIH has not completed or submitted to the NRC an environmental report regarding radiological releases from incinerators at the Bethesda campus, and the NRC has not issued an environmental assessment or impact statement regarding NIH radiological emissions, as required by the National Environmental Policy Act and 10 CFR 51.21, 51.45 and 51.60(b); (2) licensing the disposal of radioactive waste by incineration is a federal action subject to the NEPA process; (3) because releases from the NIH incinerators are capable of exceeding regulatory limits and will increase over the next few years, and because total radiological emissions from NIH are sufficient to warrant environmental analysis, the continued burning of radioactive waste by NIH without an environmental report and environmental assessment are in noncompliance with NRC environmental regulations; (4) although NRC cited NIH for its failure to adequately monitor radioactive effluents and NIH committed to install instrumentation for continuous monitoring as a corrective action for

having exceeded its yearly radioactive effluent release limit to unrestricted areas for 1987, no continuous monitoring for radioactive airborne effluents exists for the NIH incinerator stacks; (5) it is not clear that the box monitoring system installed by NIH adequately detects radioactive waste, and small amounts of iodine continue to be identified in the incinerator ash, indicating that medical waste still gets into the incinerators; and (6) it is unclear that NIH methods to assess radioactive effluent releases at the incinerators satisfy regulatory requirements and provide assurance that Part 20 limits are being met.

The NRC staff provided a partial response to North Bethesda Congress by letter dated February 24, 1994. The staff acknowledged receipt of the Petition, and denied Petitioner's request to suspend License Condition 24 pending resolution of the Petition. The denial of the request to suspend License Condition 24 was based on findings of the then most recent NRC Inspection Report, Inspection Report No. 030-01786/92-001, which concluded that emissions from the incinerators at the NIH Bethesda campus were within regulatory limits and that, despite some deficiencies, the incineration operation was under adequate control. The NRC staff, therefore, determined that there was no immediate risk to public health and safety from continued operation of the incinerators. The February 24, 1994, letter granted Petitioner's request for copies of environmental assessments and/or safety evaluations insofar as such documents exist and could be retrieved. A later search of the active and archived NRC files disclosed no such documents. The February 24, 1994, letter also granted Petitioner's request for copies of all correspondence with the Licensee concerning the matters raised by Petitioner.

As of May 1994, all three incinerators were taken out of service by NIH. In a letter dated August 10, 1994, NIH committed to permanently stop all incineration of low level radioactive waste at its Bethesda campus, and requested a license amendment to delete License Condition 27 (formerly License Condition 24) from License No. 19-00296-10. This application was granted by NRC on November 3, 1994.

I have completed my evaluation of the matters raised by Petitioner, and have determined that, for the reasons stated below, Petitioner's request to suspend authority to incinerate pursuant to License Condition 24, pending performance of an environmental assessment and an environmental report with regard to incineration operations,

and pending review of incinerator operating procedures, is moot. Petitioner's request for environmental assessments and/or safety evaluations in connection with License Conditions 21 and 28 cannot be granted because the NRC was not required to perform environmental assessments or formal safety evaluations in connection with the low level radioactivity associated with NIH discharges to the sanitary sewer system and with the low level waste storage facility at NIH's Poolesville campus, as explained below. Documents constituting the informal equivalent of an environmental review or safety evaluation in connection with License Conditions 21, 24, and 28, will be supplied to Petitioner. Petitioner's request for a copy of all correspondence between NRC and NIH regarding these matters was granted by the NRC staff letter dated February 24, 1994.

## II. Background

The NIH specific license of broad scope, No. 19-00296-10, was issued in December 1956 by the Atomic Energy Commission (AEC). The license is due to expire in May 1995. The License replaced a set of nine licenses that had been issued to different institutes or laboratories of NIH. At the time of issuance of this broad scope license, short-lived radioactive waste (half-life under 100 days) was allowed to decay in storage and was then disposed of as ordinary waste. Long-lived solid and liquid wastes were incorporated into concrete and shipped for disposal. There was no license condition permitting incineration of licensed material, and sewer disposal of licensed material was limited to 1 Ci/yr, provided other conditions, such as average concentration limits, were met.

Soon after the License was issued, NIH requested authorization to incinerate dead animals used in experiments, and other combustible waste containing tritium (H-3), carbon-14 (C-14), and sulphur-35 (S-35) in the two general purpose incinerators then in use on campus. This request was granted as License Condition 12 in February 1959. In April 1968, License Condition 21 was approved to extend the incineration authorization to include incineration of any byproduct material, provided the effluent concentration limits specified in the regulations were met for the air effluents from the incinerators, as well as for disposal of the ash resulting from incineration. Byproduct material is defined in NRC regulations as "any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to radiation

incident to the process of producing or utilizing special nuclear material". 10 CFR 20.1003. This, in effect, means any radioactive material produced in a nuclear reactor, other than plutonium, which is considered special nuclear material. H-3, C-14, and S-35 are all byproduct materials. Special nuclear material is any material that has the potential for use as fuel in a nuclear reactor, including plutonium, uranium-233, and uranium enriched in the isotope 233 or in the isotope 235.

In 1961, NIH requested raising the sewer disposal limit from 1 to 20 Ci/yr. In response to this request, NRC authorized an increase in the sewer disposal limit from 1 Ci/yr to 3 Ci/yr in October 1961, as reflected in License Condition 21. In April 1968, following another request, the sewer disposal limit was raised to 5 Ci/yr, and in April 1969, the License Condition was amended to raise the sewer disposal limit from 5 Ci/yr to its current level of 8 Ci/yr.

License Condition 24, authorizing incineration of byproduct material, and the License Condition 21, authorizing disposal of up to 8 Ci/yr of radioactive material to the sewer, have not changed materially since they were first issued.

The NRC regulations pertaining to incineration and sewage disposal appear in 10 CFR Part 20, "Standards for Protection Against Radiation", first implemented in 1957. The initial 1957 version of 10 CFR Part 20 limited the quantity of licensed and other radioactive material released into the sewerage system to 1 Ci/yr. Limits were also imposed on the average concentrations of radioactive materials in the sewer releases. The regulations in 10 CFR Part 20 were revised in 1982 to raise the disposal limit for discharges to sanitary sewerage systems from 1 Ci/yr to a total of 7 Ci/yr, of which up to 5 Ci/yr may be H-3, up to 1 Ci/yr C-14, and up to 1 Ci/yr all other isotopes combined. Permission to incinerate radioactive waste in the form disposed of at NIH was sought through the mechanism then applicable to permit licensees to apply for approval of a waste disposal method provided in 10 CFR 20.302, "Method of obtaining approval of proposed disposal procedures."

An application for a license amendment to permit interim storage of low-level radioactive waste at the NIH Animal Center in Poolesville, Maryland, was submitted to the NRC in October 1992. In the same submittal, NIH also requested an increase in its possession limits for carbon-14 from 2 to 3 curies, and for phosphorus-32 from 2 to 4 curies. The increases in possession limits were requested to provide

flexibility in waste storage. The stated reason for the request to store waste was partly to allow decay of short-lived activity before disposal, and partly in anticipation of a reduction or elimination of options for permanent disposal of low-level radioactive waste, such as the anticipated closure of the Barnwell, South Carolina waste disposal facility. In January 1993, the NRC authorized use of the Poolesville facility for interim storage of low-level radioactive waste, as reflected in License Condition 28.

### III. Discussion

#### *A. Petitioner's Request for Suspension of Incineration Operations Was Mooted by Amendment of the NIH License*

As explained above, NIH's authority to incinerate radioactive waste was terminated by the NRC Staff's November 3, 1994, grant of NIH's application for a license amendment to remove License Condition 27. Consequently, Petitioner's request for suspension of NIH incineration operations is moot. Similarly, any past deficiencies in NIH's incineration monitoring program<sup>1</sup> need not be addressed, other than to emphasize that if, in the future, NIH were to request authorization to resume incineration operations, the NRC staff, as part of its evaluation of such a request, would review the incineration program and operating procedures and require correction of any deficiencies in

the monitoring program<sup>2</sup> before granting such a request.

#### *B. Request for Environmental Assessments and Environmental Reports*

##### 1. Incineration of Radioactive Waste

Petitioner contends that incineration of radioactive wastes and potentially contaminated medical wastes by NIH, without complete environmental reports and environmental assessments, is in violation of NRC regulations and the National Environmental Policy Act (NEPA). Petitioner further states that, in the Statement of Consideration accompanying the newly revised 10 CFR Part 20, NRC retained the requirement for prior approval of incineration on a site specific basis and that NRC rejected the notion that disposal of radioactive waste by incineration is simply just another form of general effluent release, and thus approval of incineration is subject to the NEPA process. Petitioner also claims that because radiological releases from the NIH incinerators are capable of exceeding regulatory limits, as discussed in the 1988 NRC Inspection Report No. 030-01786/88-001, NIH total radiological emissions warrant environmental analyses.

The initial authorization to incinerate H-3, C-14, and S-35, as well as the 1968 license amendment extending this authorization to all byproduct materials, predated both the National Environmental Policy Act (NEPA) of 1969, and NRC regulations implementing NEPA (10 CFR Part 51), which became effective in 1974. There was, therefore, no requirement at the time of these amendments to conduct an environmental assessment. A review of NRC records pertaining to the NIH licenses failed to identify any formal environmental assessments or safety evaluations in connection with these license amendments. However, related correspondence between NRC and NIH indicate that authorization to incinerate radioactive wastes was granted on the condition operations be conducted within the effluent limits imposed by 10 CFR Part 20. The total activity incinerated in any given period was limited indirectly by limiting the

maximum allowable concentrations of radioactive materials in the effluents from the incinerator stacks to the levels specified by 10 CFR Part 20, Appendix B, Table II.

The original authorization to incinerate licensed material was reevaluated in connection with NIH's 1988 license amendment application to add a third incinerator of larger capacity to the two existing smaller incinerators previously authorized for operation. The license amendment application was accompanied by detailed descriptions of the incineration facility and proposed modes of operation and control. The record also shows correspondence from NRC requesting clarifications and additional information, as well as responses from NIH providing the requested information. These documents were incorporated into the License as tie-down conditions, which means that the Licensee must conduct operations as described in its application documents. However, a formal environmental assessment was not prepared. The amendment request was granted on the same condition as the original 1959 amendment authorizing incineration of wastes, which was that effluents from the incinerators must remain within the concentration limits specified by 10 CFR Part 20, Appendix B, Tables II. Incineration at NIH was authorized only after performance of NRC staff reviews of the incinerator design and proposed methods of operation and control of effluents, including disposal of the ash resulting from incineration, and consideration of the public doses expected from the operation.

The NRC practice in 1988 was, and still is, to determine on a case-by-case basis whether to perform an environmental assessment in connection with applications for incineration of waste containing radioactive material, provided that the concentration of radioactive materials in the incinerator effluents at the point of release, and in the ash residues, do not exceed the limits specified by 10 CFR Part 20, Appendix B, Table II, and also provided that the dose to the highest exposed member of the public that results from the authorized activity is no more than a small fraction of the dose limit for individual members of the public (100 millirem per year) specified by 10 CFR § 20.1301(a)(1). The radiation dose to a member of the public resulting from air effluents depends on the concentration of radioactive materials in the air at the location of that person. Limiting the concentrations of radioactive materials emitted from the stack at the release point to those

<sup>1</sup> NIH incinerator effluents were within the 10 CFR Part 20 regulatory limits specified by the license, and the incineration operation was under adequate control. See NIH Inspection Report No. 030-01786/92-001 (September 14, 1992) and NRC Inspection Report No. 030-01786/94-001 (July 8, 1994). Nonetheless, there were some weak areas in the program, as indicated by the possibility that the amount of iodine that was released in effluents may have exceeded ALARA goals. See NRC Inspection Report No. 030-01786/94-01. The Licensee's As Low As Reasonably Achievable (ALARA) commitment, incorporated into License Condition 27 by the July 1986 application for authority to incinerate radioactive materials, obligates the Licensee to have a program with the objective of limiting the average annual concentration of radioactive material in the incinerator stack effluents to ten per cent of the 10 CFR Part 20, Appendix B, Table II, values. The indications that the incineration effluents may have exceeded this ten percent limit in 1993 were inferential, and could not be verified on the basis of available data. The NRC staff determined that the ash residue data collected by the Licensee was not specific enough to permit a determination whether Iodine-125 releases did in fact violate the License Condition 27 requirement to have an ALARA program with the objective of limiting the average annual concentration of radioactive material in the incinerator stack effluent to 10 per cent of the 10 CFR Part 20, Appendix B, Table II, values. The available data, however, indicates that the annual average concentrations of radioactive materials in the incinerator effluents were probably substantially below the 10 CFR Part 20, Appendix B, Table II, limits for the 1990 through 1993 time period reviewed in the May 1994 NRC inspection.

<sup>2</sup> Petitioner also contends that releases from sources other than the incinerators, such as Building 21, did not appear to be routinely considered in conjunction with incinerator radionuclide releases when computing overall facility release totals to unrestricted areas. License Condition 27 imposed limits only upon incinerator radionuclide releases. Effluents from Building 21, and from other buildings on the NIH campus, are limited separately by other license conditions and by the limits imposed by 10 CFR Part 20 on effluents to unrestricted areas.

specified in 10 CFR Part 20, Appendix B, Table II, ensures that any dose to members of the public will be a small fraction of the applicable public dose limit. This is due to the fact that dispersion of the effluent air from the stack will reduce the average concentration of radioactive materials in the air at the location of an exposed individual to a small fraction of the limits for emissions at the release point, causing the delivered dose to that individual in turn to be a small fraction of the public dose limit. Review of an application to incinerate licensed materials involves, in part, verification that dispersion of the released material during transit, from the stack to the closest exposed individual, will reduce the concentrations sufficiently to ensure a very small dose to members of the public, even under the most conservative assumptions. Since the NIH application proposed limiting airborne incinerator effluents at the release point to 10 CFR Part 20, Appendix B, Table II, limits, the dose to the highest exposed member of the public would be limited to a small fraction of the dose limit for individual members of the public specified by 10 CFR § 20.1301(a)(1).

The NEPA and the Commission's implementing regulations in 10 CFR Part 51 do not require the performance of an environmental assessment in connection with authorization of incineration of radiological wastes at NIH. Under NEPA § 102(2)(c), 42 U.S.C. 4332(2)(c), and 10 CFR 51.21, an environmental assessment must be undertaken by the NRC for all licensing and regulatory actions except where the Commission's regulations, See 10 CFR 51.20(b), require the preparation of an environmental impact statement, or the licensing actions are eligible for categorical exclusion from these requirements because the actions do not individually or cumulatively have a significant effect on the human environment. 10 CFR 51.21 and 51.22(a). Any use of source, byproduct, or special nuclear material which involves quantities and forms of these materials similar to those involved in activities eligible for categorical exclusion in 10 CFR 51.22(c)(14)(i)-(xv), is also eligible for categorical exclusion. 10 CFR 51.22(c)(14)(xvi). The Commission anticipated that the quantities of radioactive material associated with the fifteen types of activities eligible for categorical exclusion under 10 CFR 51.22(c)(14)(i)-(xv) would involve effluent releases of between zero and 12% of the limits of 10 CFR Part 20. Statement of

Consideration, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions and Related Conforming Amendments", 49 FR 9352, 9376-9379 (March 12, 1984). Applicants who propose to limit the concentration of radioactive material in the incinerator stack effluents to less than 12 per cent of the applicable 10 CFR Part 20 limits, therefore, would be eligible for the categorical exclusion pursuant to 10 CFR 51.22(c)(14)(xvi). Since NIH committed, in its application for authority to incinerate radioactive waste, to have a program with the objective of limiting average annual concentrations of radioactive material in the incinerator stack effluents to 10 percent of the 10 CFR Part 20, Appendix B, Table II, limits, the NIH application for authority to incinerate was eligible for categorical exclusion pursuant to 10 CFR 51.22(c)(14)(xvi).

NIH's authority to dispose of contaminated ash residue from incinerator operations was also granted without performance of an environmental assessment, pursuant to the categorical exclusion of 10 CFR 51.22(c)(14)(xvi), for the same reasons as discussed above. The concentrations of radioactive materials in the ash residue were required by License Condition 24, in the case of NIH, to be below those specified by 10 CFR Part 20, Appendix B, Table II. Since 10 CFR Part 20 does not specify concentrations limits for ash, the limits specified for water were applied to the incinerator ash.

When the categorical exclusion provisions of 10 CFR Part 51 exempt a license application to incinerate licensed materials from the requirements to prepare an environmental assessment or an environmental impact statement, such as the NIH incineration operations, the licensee is not required to submit an environmental report for such proposed activity. Although NIH was not required to submit a formal environmental report in connection with its application for authorization of its incineration facility, NIH was required to submit, and did submit, detailed descriptions of the facility and the proposed mode of operation and control to ensure safe operation and compliance with NRC requirements.

In view of the above, the NRC was not required to and did not perform environmental assessments, and the Licensee was not required to and did not submit environmental reports, in connection with authorization of NIH incineration operations or disposal of incinerator ash residue. Petitioner has been provided, however, with copies of

documents submitted by the Licensee in support of License Condition 27 and documents associated with the grant of License Condition 27.

## 2. Radioactive Material Discharges Into the Sanitary Sewer Systems (License Condition 21)

Petitioner requests copies of the NRC environmental assessments and/or safety evaluations that provide the basis for the NRC's grant of an exception from 10 CFR § 20.303(d) limits regarding radioactive material discharges into sanitary sewer systems. License Condition 21 exempts NIH from 10 CFR § 20.303(d), now superseded by 10 CFR § 20.2003(a)(4), which limits the quantity of licensed and other radioactive material released into the sewerage system to 5 Ci/yr H-3, 1 Ci/yr C-14, and 1 Ci/yr all other isotopes combined. License Condition 21, however, authorizes disposal of up to 8 Ci/yr of all licensed and other radioactive material, with no separate limits on the activities of individual isotopes, provided the provisions in 10 CFR §§ 20.303 (a), (b), and (c), superseded by 10 CFR §§ 20.2003 (a)(1), (a)(2) and (a)(3), are met. These regulations place limits on the monthly average concentrations of radioactive materials in sewer releases.

The license amendment which initially authorized a sewer release limit of 8 Ci/yr was granted in 1969, and predates NRC's 10 CFR Part 51, which implements the National Environmental Policy Act (NEPA) of 1969. There was, therefore, no requirement at the time the license amendment was granted to conduct an environmental assessment in connection with this License Condition 21. No environmental assessments or safety evaluations to support the grant of this amendment were found in a search of NRC records, nor were any references to such documents found.

A review of NRC records pertaining to the NIH license indicates that the grant to NIH of the exemption from 10 CFR 20.303(d), by raising the annual release limit from the 10 CFR Part 20 limit of 1 Ci/yr to 8 Ci/yr in 1969, and from the 10 CFR Part 20 total activity limit of 7 Ci/yr to 8 Ci/yr after 1982, without separate limits on H-3 and C-14, was based on concentrations of radioactive material in the sewer releases from the facility. The dose to a member of the public, obtaining drinking water from the sewer discharge point for the facility, depends on the concentration of activity in the sewer water, and not on the total amount released during the year.

10 CFR 51.22(c)(14)(xvi) provides that any use of source, byproduct, or special nuclear material which involves quantities and forms of these materials similar to those involved in actions eligible for categorical exclusion from environmental assessments is also eligible for exclusion, pursuant to 10 CFR 51.22(c)(14)(i)–(xv). NIH releases daily to the sewers a very large amount of water from its various buildings and the Clinical Center. This volume of water, which substantially exceeds one million gallons per day, provides very large dilution factors for radioactive wastes released to the sewers. At the level of 8 Ci/year, the resulting average concentrations of radioactivity in water leaving the NIH campus are a small fraction of the allowable concentrations specified in the 10 CFR Part 20, Appendix B, Table 3, and thus NIH sewer disposal activity is eligible for categorical exclusion pursuant to 10 CFR 51.22(c)(xvi). See Section III.B.1, *supra*. The corresponding doses are, therefore, also small fractions of the public dose limits, and are of the same order of magnitude, or smaller, than those involved in activities that are eligible for categorical exclusion. It was, therefore, concluded that grant of the NIH application for an 8 Ci/yr sewer disposal limit was eligible for the categorical exclusion. NRC's review of the NIH amendment application for License Condition 21 also considered the fact that radioactive material in the sewer water released from NIH is further diluted at the Blue Plains Sewage Treatment Plant, to which NIH discharges its sewer water. Further dilution is provided by the Potomac River, to which the effluent from Blue Plains is discharged.

The 10 CFR Part 20 limit on total activity released to the sewers per year from a licensee's facility was imposed to guard against the possibility that more than one licensee may discharge radioactive material to the same sewer lines, thus raising the overall concentrations of radioactive materials in the sewer lines. This was not an important consideration in the case of NIH in view of the high water discharge volume from the facility, which ensures very low concentrations of radioactive materials, even in the presence of possible sewer discharges from other licensees discharging to the same sewer system. A review of the NIH records for sewer discharges in recent years showed that the annual quantities discharged have been less than the 7 Ci/yr limit in 10 CFR Part 20. License condition 21 did not impose separate limits on H-3 and C-14 discharges.

In view of the above, Petitioner's request for environmental assessments and/or safety evaluations providing the basis for authorization of License Condition 21 cannot be granted. Petitioner, however, has been provided with documents submitted by NIH to the NRC in support of the amendment requests to raise the sewer discharge limits.

### 3. Construction and Operation of the Low Level Waste Storage Facility at NIH's Poolesville Campus (License Condition 28)

Petitioner requests copies of the NRC environmental assessments and/or safety evaluations that provide the bases for the NRC grant of the Licensee's license amendment application for construction and operation of a low level waste storage facility at NIH's Poolesville campus. License Condition 28 of the License currently states that "Radioactive waste generated under this License shall be stored in accordance with the statements, representations, and procedures included with the Licensee's waste storage plan described in the Licensee's application dated October 13, 1992". The conditions under which radioactive waste is stored at the Poolesville facility are described in the Licensee's 1992 application for an amendment to permit such storage, and were incorporated into License Condition 28 as tie-down conditions. They were evaluated by the NRC staff and found to be adequate to ensure public health and safety and to minimize adverse environmental effects. The Poolesville facility is inspected routinely by NRC's Region I to ensure that the conditions described in the bases for the license amendment are being observed, in addition to observance of good radiological safety practices.

The application documents for the License Condition 28 provide detailed descriptions of the Licensee's Poolesville facility and surrounding environment and demography, storage building construction details, methods of waste storage, waste form and inventory control, and other relevant details. This information was provided in accordance with the instructions in NRC Information Notice IN 90-09, "Extended Interim Storage of Low-Level Waste by Fuel Cycle and Materials Licensees", which describes the information required by the NRC for its review of license amendment requests to authorize extended interim storage of low-level radioactive waste. This review is functionally equivalent to an environmental assessment for such facilities.

In view of the above, Petitioner's request for environmental assessments and/or safety evaluations in connection with authorization of License Condition 28 cannot be granted. Petitioner, however, has been provided with a copy of IN 90-09 and the information submitted by the Licensee in support of its application for authority to construct and operate the Poolesville low level waste storage facility, which is the functional equivalent of an environmental report and safety evaluation.

### C. Request to Forward a Copy of Future Correspondence Between NRC and NIH to Petitioner

As requested by Petitioner, North Bethesda Congress of Citizen's Associations will be placed on the distribution list for all correspondence regarding operation of the NIH incinerators, sewer disposal limits, and interim radioactive waste storage license amendments at the Poolesville facility.

## IV. Conclusion

For the reasons discussed above, Petitioner's request to suspend authority for incineration operations by NIH pursuant to Condition 24 of the NIH License, pending a review and improvement of operating procedures for the incinerators, and pending preparation of an environmental assessment and an environmental report, was mooted by removal of that authority from NIH License No. 19-00296-10 in November 1994. Petitioner's request for copies of any NRC environmental assessments and/or safety evaluations that provide the bases for authorization of License Conditions 21 and 28 cannot be granted, as explained in Section III, *supra*. Certain information submitted by the Licensee in connection with its request for authorization of License Conditions 21, 24, and 28, and NRC correspondence in response, however, was provided to Petitioner. Petitioner's request for a copy of all future correspondence between NRC and NIH regarding these matters is granted.

A copy of this Decision will be filed with the Secretary of the Commission for the Commission to review in accordance with 10 C.F.R. 2.206(c). As provided by this regulation, this Decision will constitute the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Rockville, Maryland, this 5th day of March, 1995.

For the Nuclear Regulatory Commission.  
**Robert M. Bernero,**  
*Director, Office of Nuclear Materials Safety and Safeguards.*  
 [FR Doc. 95-6733 Filed 3-17-95; 8:45 am]  
 BILLING CODE 7590-01-P

**[Docket Nos. 50-317 and 50-318]**

**Baltimore Gas and Electric Co., Calvert Cliffs Nuclear Power Plant Unit Nos. 1 and 2; Notice of Partial Withdrawal of Application for Amendment to Facility Operating License**

The United States Nuclear Regulatory Commission (the Commission) has granted the request by the Baltimore Gas and Electric Company (BG&E) to withdraw a portion of its December 8, 1993, application for proposed amendments to Facility Operating License Nos. DPR-53 and DPR-69 for the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, located in Calvert County, Maryland.

The proposed amendments would revise Technical Specifications (TSs) Section 5.0, Design Features. The requested changes, for the most part, adopt the improved Standard Technical Specifications format and content for Combustion Engineering plants provided in NUREG-1432. Included in the initial December 8, 1993, application was a request to delete two subsections of the existing TSs. These subsections were Subsection 5.3.3, "Control Element Assemblies," and 5.6.3, "Drainage." Subsection 5.6.3 relates to inadvertent drainage of the spent fuel pool. By letter dated March 2, 1995, BG&E withdrew the request to delete these two subsections. The existing information in Subsection 5.3.3 will be retained in a new Subsection 5.2.2 and the information in Subsection 5.6.3 will be retained in a new Subsection 5.3.2. The new subsection designations are necessary to be consistent with the reformatting of the Design Features Section of the TSs.

The Commission has previously issued a Notice of Consideration of Issuance of Amendments to Facility Operating License Nos. DPR-53 and DPR-69, Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing, which was published in the **Federal Register** on January 19, 1994 (59 FR 2861).

For further details with respect to this action, see the application for amendments dated December 8, 1993, as supplemented on March 2, 1995. The March 2, 1995, letter provided clarification of the initial application and withdrew the request to delete the

two subsections as detailed above. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Calvert County Library, Prince Frederick, Maryland 20678.

Dated at Rockville, Maryland, this 14th day of March 1995.

For the Nuclear Regulatory Commission.  
**Daniel G. McDonald,**  
*Senior Project Manager, Project Directorate I-1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.*  
 [FR Doc. 95-6731 Filed 3-17-95; 8:45 am]  
 BILLING CODE 7590-01-M

**[Docket No. 50-213]**

**Connecticut Yankee Atomic Power Company; Notice of Issuance of Amendment to Facility Operating License**

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 185 to Facility Operating License No. DPR-61 issued to the Connecticut Yankee Atomic Power Company (the licensee), which revised the Technical Specifications for operation of the Haddam Neck Plant located in Middlesex County, Connecticut. The amendment is effective as of the date of issuance to be implemented within 30 days of issuance.

The amendment revises the Haddam Neck Plant Technical Specifications (TS) to allow an increased limit for fuel enrichment. The change allows the storage of fuel with an enrichment not to exceed a nominal 5.0 weight percent (w/o) U-235 in the Haddam Neck Plant new and spent fuel storage racks. The current new and spent fuel storage rack maximum nominal enrichment is 3.9 w/o U-235 for Zircaloy clad fuel and 4.0 w/o U-235 for stainless steel clad fuel.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on June 14, 1994 (59 FR 30620). No request for a hearing or petition for leave to intervene was filed following the notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (60 FR 7798).

For further details with respect to the action see (1) the application for amendment dated May 17, 1994, as supplemented September 9, 1994, and January 31, 1995, (2) Amendment No. 185 to License No. DPR-61, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, and at the local public document room located at the Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Dated at Rockville, Maryland, this 10th day of March 1995.

For the Nuclear Regulatory Commission.  
**Alan B. Wang,**  
*Project Management, Project Directorate I-3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.*  
 [FR Doc. 95-6734 Filed 3-17-95; 8:45 am]  
 BILLING CODE 7590-01-M

**POSTAL RATE COMMISSION**

**[Docket No. RM95-2]**

**Procedural Streamlining Inquiry; Notice of Request for Comments on Information Contained in Postal Service Requests**

March 15, 1995.

Before Commissioners: Edward J. Gleiman, Chairman; W.H. "Trey" LeBlanc III, Vice-Chairman; George W. Haley; H. Edward Quick, Jr.; Wayne A. Schley

On December 14, 1994, the Commission issued an Advance Notice of Proposed Rulemaking (Advance Notice) seeking suggestions concerning how the Commission's rules of practice and procedure could be amended or supplemented to improve the efficiency and expedition of consideration of requests for changes in postal rates and classifications conducted pursuant to 39 U.S.C. 3624(a). Comments were due on or before February 21, 1995, and the Commission has received several thought provoking statements from frequent participants in these cases. Several comments emphasized the importance of timely access to Postal